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Letter dated 30 April 2003 from the President of the Security Council addressed to the Secretary-General

I have the honour to refer to your letter of 16 April 2003 (S/2003/431), attaching for the consideration of the members of the Security Council a letter dated 26 March 2003 from the President of the International Tribunal for Rwanda, Judge Navanethem Pillay. In her letter, President Pillay requests extensions of the term of office of four non-elected permanent Judges of the International Tribunal in order to allow them to dispose of a number of ongoing cases.

The letter has been carefully considered by the members of the Security Council. As a result, I have been asked to convey to Judge Pillay, through you, the views of the members of the Security Council on the proposals in her letter.

While the members of the Security Council shared the view that the Statute of the International Tribunal and Security Council precedents allow in principle the endorsement of requested extensions of the terms of office of the Judges, in order to authorize them to finish any cases which they may have begun, there was also the view that each request raises a different set of legal and practical issues.

With regard to the request of Judge Pavel Dolenc, there was general agreement that the requested extension could be endorsed by the Security Council as referred to in your letter.

In relation to Judge Yakov Arkadyevich Ostrovsky, a national of the Russian Federation, the members of the Security Council were aware that, on 31 January 2003, the General Assembly elected Judge Serguei Alekseievich Egorov, a national of the Russian Federation, as a permanent Judge of the International Tribunal for Rwanda for a four-year term of office commencing 25 May 2003. The members of the Security Council shared the view that the requested extension of the term of office of Judge Ostrovsky, as referred to in your letter, to finish the *Cyangugu* case could be endorsed on the understanding that the unique circumstances of such request justifies a temporal and limited exception of article 11, paragraph 1, of the Statute of the Tribunal.

With regard to President Pillay's request that the term of office of Judge Winston Churchill Maqutu be extended so that he might finish the *Kajelijeli*, *Kamuhanda* and *Butare* cases, the members of the Security Council concluded that it is desirable that Judge Maqutu finish the *Kajelijeli* and *Kamuhanda* cases, scheduled to be completed in December 2003. In relation to the *Butare* case, the members of the Security Council are of the view that the requested extension until December

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2005 was far too long. The Security Council members noted that the precedents in this area did not warrant an extension of the term of office beyond one year. Therefore, the members were not inclined to endorse this request. In this connection, the members of the Security Council would appreciate from Judge Pillay confirmation that it would indeed be necessary to begin again the *Butare* case, and if so, the financial and practical consequences of the transfer of the *Butare* case to a differently constituted Trial Chamber, including the implications for the Tribunal's completion strategy.

With regard to Judge Pillay's request for the extension of her term of office until the completion of the *Media* case, the members of the Security Council concluded that this raised a different set of issues that would require further clarification before the Council endorsed her request. The members of the Security Council were aware that, on 4 February 2003, she was elected a Judge of the International Criminal Court by the Assembly of States Parties to the Rome Statute of the International Criminal Court and that her term of office commenced on 11 March 2003. It was the view of the members that before the Council proceeds to consider her particular situation, the members would appreciate seeing a written undertaking from her to be fully available as Judge of the International Tribunal for Rwanda and that she would not be engaged in any substantive work as a Judge of the International Criminal Court during the period of time that would be required for her to complete the *Media* case.

Additionally, I wish to inform you that the members of the Security Council have asked me to seek the view and advice of the President of the International Criminal Court on this specific issue.

Before the Security Council takes appropriate action on the requests of extensions of the terms of office of the four non-elected permanent judges of the International Tribunal for Rwanda as contained in your letter dated 16 April 2003, the members of the Security Council would appreciate clarification from President Pillay on the above-mentioned issues.

Once the Security Council takes appropriate action on such requests, its members would be grateful to receive quarterly reports on the progress of the cases referred to in your letter of 16 April 2003.

Finally, the Council members have asked me to express to President Pillay and her colleagues their continued support for the International Tribunal and their appreciation for the work which it is doing.

(*Signed*) Adolfo **Aguilar Zinser**
President of the Security Council